

APPEAL NO. 020470
FILED MARCH 27, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 5, 2002. The hearing officer resolved the disputed issue by concluding that the respondent's (claimant) compensable injury includes an injury to the left shoulder. The appellant (carrier) appealed, arguing that the findings of the hearing officer are not supported by sufficient evidence and are so contrary to the great weight of the evidence that they are manifestly wrong and unjust. The claimant replies, contending that there was sufficient evidence to support the determinations of the hearing officer.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. The claimant testified that symptoms to his left shoulder began in March, during prescribed physical therapy for a back injury he sustained on _____. He testified that he told Dr. W, an orthopedic specialist, that his shoulder was hurting, but Dr. W told him they needed to concentrate on his back injury. Medical records dated April 3, 2000, reflect that the claimant circled his left shoulder on the outline of a person to indicate he experienced pain in his left shoulder. The carrier presented a peer review report that concluded that the left shoulder is not related to the mechanism of injury nor is it an effect that would naturally result from an injury to the low back.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The trier of fact may believe all, part, or none of any witness's testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **COLONIAL CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**BILL HAGAN
12850 SPURLING DRIVE, SUITE 250
DALLAS, TEXAS 75230.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Edward Vilano
Appeals Judge